

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

CHEMICAL WASTE MANAGEMENT,
INC., BAKERSFIELD FACILITY
27001 Round Mountain Road
Bakersfield, California

EPA ID. No. CAT000624056

Case No.: PAT-FY08/09-03

ORDER TO SET BRIEFING PERIOD
FOR PETITION FOR REVIEW AND
DENIAL OF REVIEW

California Code of Regulations,
Title 22, Section 66271.18(c)

Issue Date: February 10, 2009

I. INTRODUCTION

On June 19, 2007, the Department of Toxic Substances Control, Northern California Permitting and Corrective Action Branch (NCPCAB), issued a Hazardous Waste Facility Post-Closure Permit decision approving a Permit for the Chemical Waste Management, Inc. (CWMI), Bakersfield Facility (CWMB or Facility or Site), located at 27001 Round Mountain Road, Bakersfield, California. A timely Petition for Review (Petition) was filed on July 19, 2007.

Pursuant to California Code of Regulations, title 22, section 66271.14(b)(2), the Permit decision has been stayed pending determination whether the appeal meets the criteria for granting a review. In the interim, CWMI continues to be authorized by DTSC to operate the Facility under the terms and conditions of Hazardous Waste Facility Permit 05-SAC-10, issued with an effective date of April 30, 1991.

II. JURISDICTION

The Department of Toxic Substance Control (DTSC) has jurisdiction over hazardous waste facility permits and the imposition of conditions on such permits pursuant to the California Health and Safety Code, section 25200 et seq., and California Code of Regulations, title 22, section 66270.30.

1 On July 23, 1992, the State of California received final authorization under
2 section 3006(b) of the Resource Conservation and Recovery Act of 1976, as amended,
3 (RCRA), 42 U.S.C. section 6926(b), to operate its hazardous waste program in lieu of
4 the federal program (57 Fed. Reg. 32, 726 (July 23, 1992)). As a RCRA-authorized
5 state, California has the authority to issue, modify, and administer RCRA-equivalent
6 permits.

7 **III. BACKGROUND**

8 **A. FACILITY DESCRIPTION AND HISTORY**

9 The Facility is a closed 150 acre site which was used for the disposal of class II-1
10 designated wastes. It is located approximately 13 miles northeast of the City of
11 Bakersfield. The Facility was previously operated by M.P. Disposal Company, from
12 1973 until 1981, at which time CWMI purchased the Facility. CWMI continued
13 hazardous waste operations from 1981 until 1985. At the time of closure, the Site was
14 comprised of two waste management units known as the Eastern and Western Waste
15 Management Units, and within these were nine surface impoundments, two landfills,
16 and a land spreading area.

17 On June 26, 1987, the Department of Health Services (DHS) approved the
18 Facility's Closure Plan. In 1987, closure construction work was completed. Closure
19 construction work included: stabilization of liquids and sludge in all surface
20 impoundments; consolidation of contaminated waste material from unmanaged areas
21 into designated waste management units; grading for placement of a closure cover;
22 placement of closure cover; construction of drainage and erosion control features; and
23 vegetation of the closure cover. The stabilization process included removing free liquids
24 from wastes in surface impoundments through evaporation followed by waste
25 solidification using on-site contaminated soil and Portland cement to achieve specific
26 performance criteria of chemically solidifying the liquids contained in the sludge and
27 creating a stable foundation for the final cover. The closure cover was installed on
28

1 approximately 91 acres and included 18 inches of compacted clay and 15 inches of top
2 soil.

3 The wastes previously accepted at the facility consisted of liquid, semi-solids,
4 and solid wastes which were predominantly generated from local oil field exploration
5 and production. However, these wastes also contained or were mixed with hazardous
6 or RCRA subtitle C constituents, including metals, hydrocarbons, organic solvents, and
7 biocides.

8 **B. PERMIT DECISION**

9 On October 31, 2000, CWMI submitted a Resource Conservation and Recovery
10 Act (RCRA) Post-Closure Permit Renewal Application (Application) for their Bakersfield
11 facility. On January 26, 2004, NCPCAB issued a Notice of Deficiency (NOD) for the
12 October 2000 Application. On August 5, 2005, CWMI submitted a revised RCRA Post-
13 Closure Permit Renewal Application. On June 30, 2006, NCPCAB issued a public
14 notice requesting comments on the draft Hazardous Waste Facility Post-Closure Permit.
15 NCPCAB also prepared a document titled "Chemical Waste Management Bakersfield
16 Facility Post Closure Care Findings and Determination" (Findings Document), and a
17 Fact Sheet. The Findings Document detailed reasons for extending the post-closure
18 care period for the facility, as well as the rationale for replacing or extensively repairing
19 the closure cover. The public comment period was announced by publishing a public
20 notice in the Bakersfield Californian and running a 30-second radio announcement on
21 News Talk 1410 AM in Bakersfield. The public comment period was initially opened
22 from June 30, 2006, to August 12, 2006, but was later extended to August 30, 2006.
23 The draft Post Closure Permit and related documents were placed in the following
24 public repositories:

- 25 1. The Kern County Public Library, 701 Truxtun Avenue, Bakersfield, California.
- 26 2. The Department of Toxic Substances Control – Fresno Office, 1515 Tollhouse
27 Road, Clovis, California.
- 28

1 In addition, the full administrative record was available for review at the DTSC Cal
2 Center (Sacramento) Office, 8800 Cal Center Drive, Sacramento, California.

3 On June 19, 2007, NCPCAB issued a Notice of Final Hazardous Waste Facility
4 Post-Closure Permit decision, and established a 30-day period ending on July 19, 2007,
5 for filing a request for review of the decision under California Code of Regulations,
6 title 22, section 66271.18. After the close of the public comment period, NCPCAB made
7 changes, added conditions to the draft permit, and issued the final permit.

8 Copies of the Final Post-Closure Permit, Response to Comments, and CEQA
9 Notice of Exemption were made available for review at the above repositories. All of the
10 above referenced documents were also available on the DTSC website at the following
11 link: http://www.dtsc.ca.gov/HazardousWaste/Projects/CWMI_Bakersfield.cfm.

12 **C. PERMIT APPEAL PROCESS (BACKGROUND AND CHRONOLOGY OF EVENTS)**

13 Pursuant to California Code of Regulations, title 22, section 66271.18(a), the 30-
14 day period within which a person may request review for filing a Petition for Review
15 ("Petition" or "Appeal") of the final Permit decision began June 19, 2007 and ended on
16 July 19, 2007. A single Petition for review dated July 19, 2007, was filed on behalf of
17 Chemical Waste Management, Inc., by Mr. Philip Perley, Closed Sites Project Manager.

18 In its Petition for Review, CWMI requested that DTSC "hold this Petition in
19 abeyance while we work through these issues", referring to Special Permit Conditions
20 V.1 and V.2, pertaining to waste declassification or demonstration of "clean closure."
21 These conditions were added by DTSC as changes from the draft to final permit. CWMI
22 informed the Department in the Petition that "In the event that we are unable to reach
23 agreement on waste declassification or 'clean closure', we will activate this appeal and
24 supplement this initial submittal with further briefing on the contested issues." In its
25 August 20, 2007 letter, the Permit Appeals Officer of DTSC found good cause for
26 granting a stay of appeal proceedings until October 18, 2007 but denied the request to
27 submit supplemental briefing at a later date, citing lack of regulatory authority:
28

1 Your letter also requests that, if and when DTSC processes this appeal,
2 that you be allowed to provide supplemental briefing on the issues you
3 have raised. The regulations require that a petition for review be filed
4 within thirty days after a final permit decision. The petition is required to
5 include a statement of reasons supporting that review. (California Code of
6 Regulations, title 22, section 66271 .18 (a)) DTSC'S decision to grant or
7 deny review of the petition for review is based on the petition having been
8 filed within the regulatory time requirements. DTSC will not accept
9 supplemental briefing on the petition for review prior to its decision to grant
10 or deny review of the petition.

11 On September 13, 2007, CWMI submitted a second extension request for a stay
12 of appeal proceedings to December 18, 2007, which was granted on a finding of good
13 cause. A third stay request dated December 11, 2007, requested an additional stay to
14 June 30, 2008. Failing to find good cause, on January 4, 2008, DTSC denied the
15 request for a third extension for stay of appeal proceedings, and commenced review of
16 the Petition.

17 Thereafter, on February 25, 2008, CWMI submitted a Petition for Review –
18 Supplemental Brief (Brief). The Brief provides additional arguments and discussion to
19 support CWMI's Petition which was timely submitted to DTSC.

20 By letter dated May 7, 2008, DTSC responded to the Petitioner, reiterating the
21 language of its August 20, 2007, letter, above, and stating that the Brief would not be
22 reviewed "prior to its decision to grant or deny review of the petition."

23 The final permit decision has been stayed pursuant to California Code of
24 Regulations, title 22, section 66271.14(b)(2), until the Department has completed review
25 of the appeal and determined which, if any, of the issues raised in the appeal meet the
26 criteria set forth in California Code of Regulations, title 22, section 66271.18, for
27 granting review.
28

IV. STANDARD OF REVIEW

California Code of Regulations, title 22, section 66271.18(a), provides that any person who filed comments, or participated in the public hearing on the draft Permit during the public comment period, may petition the Department to review any condition of the final permit decision to the extent that the issues raised in the petition for review were also raised during the public comment period for the draft permit decision, including the public hearing. Any person who did not file comments or participate in the public hearing on the draft Permit may petition the Department for review of the final permit decision, but only with respect to those conditions in the final permit decision that differ from the draft Permit.

California Code of Regulations, title 22, sections 66271.18(a)(1) and (2) also provide, in pertinent part, that:

The petition shall include a statement of the reasons supporting that review, including a demonstration that any issues being raised were raised during the public comment period (including any public hearing) to the extent required by these regulations and when appropriate, a showing that the condition in question is based on:

- (a) a finding of fact or conclusion of law which is clearly erroneous, or
- (b) an exercise of discretion or an important policy consideration which the Department should, in its discretion, review.

California Code of Regulations, title 22, section 66271.12, specifies the extent to which issues are required to be raised during the public comment period for a draft permit decision. Specifically, this section states that "All persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Department's tentative decision to deny an application or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments and factual grounds supporting their position".

1 **V. FINDINGS**

2 The issues raised in the Petition are categorized under three subject headings:

- 3 (1) Financial Assurance with 6 items;
4 (2) Closure Cover with 5 items and;
5 (3) Groundwater Data with 3 items.

6 For these items, CWMI incorporates and submits a marked up version of the
7 "Response to Comments Document" (RTC) issued by NCPCAB, indicating that they
8 were raised during the public comment period, thereby demonstrating that CWMI has
9 standing to appeal these issues. In addition, the Petition contests the deadlines
10 imposed by permit conditions V.1 and V.2., and also asserts that the Owner/Operator is
11 identified incorrectly on the cover page of the Final Permit. Because permit conditions
12 V.1 and V.2. significantly differ from the conditions in the draft permit, CWMI has
13 standing to appeal these conditions as well.

14 This order will discuss and respond to the Appeal Comments in the same order
15 as they appear in the Petition.

16 Terms used in this Order shall be defined as follows:

- 17 1. The Northern California Permitting and Corrective Action Branch
18 (NCPCAB), refers to the "Permitting Program staff" within the Department
19 of Toxic Substances Control that issued the Post Closure Permit decision
20 subject to this review. Permitting Program staff involved with issuance of
21 the Permit are not a part of the decision-making team for the appeal.
22 2. The "Permit" refers to the Hazardous Waste Facility Post Closure Permit
23 No. 05-SAC-10 issued by NCPCAB on June 19, 2007.
24 3. The "Petition" is the Petition for Review enclosed with the letter dated
25 July 19, 2007, by Mr. Phillip C. Perley, Closed Sites Project Manager, on
26 behalf of Chemical Waste Management, Inc.
27
28

- 1 4. The “Petitioner” is Chemical Waste Management, Inc. (CWMI). “CWMB”
2 refers to Chemical Waste Management’s Bakersfield Facility located at
3 27001 Round Mountain Road, Bakersfield, California.
- 4 5. “RTC” refers to the Response to Comments document issued by NCPCAB
5 with its final decision dated June 19, 2007.
- 6 6. “Original Comment” means comments submitted during the public
7 comment period after issuance of the draft permit, which are set forth in
8 the RTC document.
- 9 7. “RCRA hazardous waste” means all waste identified as a hazardous
10 waste in Part 261 (commencing with Section 261.1) of Subchapter I of
11 Chapter 1 of Title 40 of the Code of Federal Regulations and appendices
12 thereto.
- 13 8. “Non-RCRA hazardous waste” means all hazardous waste regulated in
14 the state, other than RCRA hazardous waste as defined above. A
15 hazardous waste is presumed to be a RCRA hazardous waste unless it is
16 determined pursuant to California Code of Regulations, title 22, section
17 66261.101 that the hazardous waste is a non-RCRA hazardous waste.
- 18 9. “Permit Appeals Officer” is the DTSC employee who is delegated the
19 authority to review and act on permit appeals filed pursuant to California
20 Code of Regulations, title 22, section 66271.18. The Permit Appeals
21 Officer and staff are not involved in the permit issuance process.

22 **1. Financial Assurances - Appeal Comments 1(a) through 1(f)**

23 **Appeal Comment 1(a):**

24 DTSC’s rolling renewal of the 30-year period is contrary to law.

25 **Response to Appeal Comment 1(a):**

26 Pursuant to the criteria set forth in California Code of Regulations, title 22,
27 section 66271.18(a) and (c), review of the issues raised in this comment is granted.

1 **Appeal Comment 1(b):**

2 Leachate fees should be based on criteria for non-hazardous waste, not
3 hazardous waste.

4 **Response to Appeal Comment 1(b):**

5 The Petitioner has failed to meet the burden to establish that DTSC should grant
6 review of this issue pursuant to the criteria set forth in California Code of Regulations,
7 title 22, section 66271.18(a). For this reason, DTSC denies review of this Appeal
8 Comment.

9 Historically, the Facility operated as a permitted hazardous waste disposal facility
10 and during its operating lifetime accepted various RCRA hazardous wastes and Non-
11 RCRA hazardous wastes (or RCRA-exempt).

12 At closure, these hazardous wastes or hazardous waste residues were left in
13 place under an engineered cap. A leachate collection and removal system (LCRS) was
14 also installed. Any wastes derived from the closed hazardous waste landfill (including
15 any leachate or precipitation run-off) are presumed to be a hazardous waste pursuant to
16 California Code of Regulations, title 22, division 4.5, section 66261.3(c).

17 The fact that CWMI presently tests the leachate and impacted groundwater from
18 the Northwest Canyon, classifies it as non-hazardous under the provisions of California
19 Code of Regulations, title 22, section 66261.3 (d), and transports it under non-
20 hazardous waste manifests for disposal does not establish that the same will be true in
21 the future. Thus it is reasonable for DTSC to treat the leachate as hazardous waste for
22 the purposes of post closure cost estimating. Accordingly, the petition for review of this
23 comment is denied.

24 **Appeal Comment 1(c):**

25 DTSC assumes 30 years of maximum leachate generation. This is not a valid
26 assumption. DTSC needs to consider an average based on historic volumes of
27 leachate.
28

1 **Response to Appeal Comment 1(c):**

2 The Petitioner has failed to meet the burden to establish that DTSC should grant
3 review of this issue pursuant to the criteria set forth in California Code of Regulations,
4 title 22, section 66271.18(a). For this reason, DTSC denies review of this Appeal
5 Comment.

6 In fact, the volumes estimated by CWMI differ little from the volumes estimated
7 by NCP CAB. Specifically, CWMI estimates 44,000 gallons per year based on historic
8 average¹ whereas NCP CAB estimated 45,000 gallons per year (5,000 gallons per
9 collection event, at 9 events per year). Also, NCP CAB estimates 270 loads while CWMI
10 estimates 264 loads over 30 years.

11 The foregoing facts show that the NCP CAB estimate is not materially different
12 from CWMI's. Thus, CWMI's claim that historic data is not being utilized to
13 determine the average annual volume of leachate is not accurate. Thus, the petition
14 for review of this appeal comment is denied.

15 **Appeal Comment 1(d):**

16 The cost estimate based on project manager time at 50 percent for 30 years is
17 excessive.

18 **Response to Appeal Comment 1(d):**

19 Pursuant to the criteria set forth in California Code of Regulations, title 22,
20 section 66271.18(a) and (c), DTSC is granting review of the issues raised in this
21 comment.

22 **Appeal Comment 1(e):**

23 The cost estimate based on a 20 percent contingency is excessive.

24 **Response to Appeal Comment 1(e):**

25 The Petitioner has failed to meet the burden to establish that DTSC should grant
26 review of this issue pursuant to the criteria set forth in California Code of Regulations,
27

28 ¹ See Draft Permit comment 17 by CWMI: "The cost estimate for leachate management and disposal should be adjusted to reflect an average of 44,000 gallons per year (264 loads over 30 years) at \$0.56 per gallon disposal cost and at \$566 per load..."

1 title 22, section 66271.18(a). For this reason, DTSC denies review of this Appeal
2 Comment.

3 In draft permit comment 17, CWMI argues that: "After 19 years of conducting
4 PCC, a contingency of 10 percent should be adequate." Additionally, in comment 25,
5 CWMI states, in pertinent part, that: "A contingency of 20% exceeds what is required.
6 DTSC requires a 10% contingency."

7 NCPCAB responded to the first comment with the following statement:

8 The post-closure cost estimate shall be based on the costs of hiring a third
9 party to conduct post-closure care activities. The information provided
10 above is not third party costs and relies on internal costs associated with
11 another of CMW's facilities. DSTC cannot accept the cost estimate
provided by CWM. In addition, CWM provides no basis for using a lower
estimated cost for site management. (RTC No. 17, page 15)

12
13 NCPCAB responded to the second comment with the following statement
14 (excerpt):

15 A contingency of 20% is appropriate for a facility where significant repairs
16 or refurbishment is needed. This indicates that the facility will require more
17 resources than was originally estimated. A lower contingency may be
18 used in the future at this site, once DTSC is convinced the facility is in a
stable condition and does not require extensive repair. (RTC No. 25,
page 21)

19 CWMI provides no data to support their argument for a 10% contingency
20 allowance. It is DTSC's explanation that 20% contingency is reasonable considering
21 the need for significant repairs and refurbishments at the site. CWMI does not deny the
22 need for significant repairs to the cover system at the site. NCPCAB has further
23 indicated that a lower contingency may be used in the future provided data supports it.

24 For the above reasons, the petition for review of Appeal Comment 1(e) is denied.

25 **Appeal Comment 1(f):**

26 Financial assurance for cover reconstruction is not appropriate until DTSC
27 approves the reconstruction cost estimate and/or reconstruction plan; financial
28 assurance should not be required contemporaneously with the cost estimate.

1 **Response to Appeal Comment 1(f):**

2 Pursuant to the criteria set forth in California Code of Regulations, title 22,
3 section 66271.18(a) and (c), DTSC is granting review of the issues raised in this
4 comment.

5 **2. Closure Cover - Appeal Comments 2(a) through 2(e):**

- 6 (a). The existing cover does restrict infiltration to acceptable *de minimis*
7 volumes.
8 (b). The existing cover meets “original design specifications that meet
9 regulatory requirements.” The cover meets the regulatory
10 requirements at the time of construction and meets the
11 requirements today. There is no need to reconstruct the cover.
12 (c). The standard of “no” infiltration is technically impossible and cannot
13 be achieved.
14 (d). DTSC’s assumption that the cover will completely fail at some point
15 in time is improper. DTSC’s statement “it is a matter of when, not
16 if” is a supposition not supported by sound engineering.
17 (e). The design standard for the closure cover is 100 years. This is not
18 the financial assurance standard.

19 **Response to Appeal Comments 2(a) through 2(e):**

20 Pursuant to the criteria set forth in California Code of Regulations, title 22,
21 section 66271.18(a) and (c), DTSC is granting review of the issues raised in appeal
22 comments 2(a) through 2(e).

23 **3. Groundwater Data - Appeal Comments 3 (a) through (c):**

- 24 (a) DTSC disregarded important groundwater data.
25 (b) DTSC’s assumption that the liner will fail and that “hazardous
26 waste” liquid as volatile organic compounds will enter into the
27 groundwater is improper. Documents cited indicate that all waste in
28 was non-hazardous. No volatile organics have been or likely will be
detected in groundwater.
(c) Permit ignores DTSC’s own interpretation of “no threat.”

Response to Appeal Comment 3, issues (a) through (c)

Pursuant to the criteria set forth in California Code of Regulations, title 22,
section 66271.18(a) and (c), DTSC is granting review of the issues raised in appeal
comments 3(a) through 3(c).

1 **4. Appeal Comment 4 - 60 day Deadline for Special Permit Conditions V.1 and**
2 **V.2**

3 CWM also contests the deadlines imposed by Part V, Special Conditions 1
4 and 2 to the extent DTSC takes the position that the 60-day submittal deadlines
5 could preclude CWM from submitting either a waste declassification notification
6 or clean closure work plan after the end of the 60-day period. The basis for the
7 challenge to the deadlines in these conditions is that they are inconsistent with
8 DTSC regulations in that DTSC regulations do not impose any such deadlines on
9 a permit holder's right to submit a waste declassification or to demonstrate that a
10 facility will meet the closure removal and decontamination standards. As neither
11 Permit Condition V.1 nor V.2 were included in the draft permit, CWM did not and
12 could not submit comments on these conditions during the public comment
13 period.

14 **Response to Appeal Comment 4:**

15 Pursuant to the criteria set forth in California Code of Regulations, title 22,
16 section 66271.18(a) and (c), DTSC is granting review of the issues raised in this
17 comment.

18 **5. Appeal Comment 5 - Incorrect Owner/Operator name on the Final Permit**
19 **Cover Page**

20 Finally, we note that, while the text of the Permit correctly identifies CWM
21 as the owner and operator of the facility (Part II 1 and 2), the cover page of the
22 permit incorrectly identifies Waste Management, Inc. as the owner and operator.

23 **Response to Appeal Comment 5:**

24 Pursuant to the criteria set forth in California Code of Regulations, title 22,
25 section 66271.18(a) and (c), DTSC is granting review of the issues raised in this
26 comment to determine whether the name of the owner/operator was a typographical
27 error.

1 **VI. ORDER**

2 For the reasons set forth above, review of the following appeal comments is
3 hereby granted:

4 Comment 1(a) - Rolling renewal period,
5 Comment 1(d) - Financial assurance – project management,
6 Comment 1(f) - Financial assurance/cost estimate,
7 Comment 2(a) through (e),
8 Comment 3(a) through (c),
9 Comment 4 - Deadlines for submittal, and
10 Comment 5 – Incorrect Owner/Operator name

11 For the reasons set forth above, the review of the following appeal comments is
12 hereby denied:

13 Comment 1(b) – Leachate fees
14 Comment 1(c) – Leachate volume calculations
15 Comment 1(e) – Contingency fees

16 Pursuant to California Code of Regulations, title 22, section 66271.18(c), the
17 Department will establish a briefing schedule for this appeal, during which time,
18 interested parties may file written arguments pertaining to the issues of the Appeal
19 Comments for which the review has been granted. The written arguments should
20 include all reasonably available arguments and factual grounds supporting their
21 position, including all supporting material. All supporting materials shall be included in
22 full and may not be incorporated by reference, unless they are already part of the
23 administrative record, or consist of State or Federal statutes and regulations,
24 Department or USEPA documents of general applicability, or other generally available
25 reference materials (California Code of Regulations, title 22, section 66271.12).
26 Additionally, the briefing documents must clearly identify a condition of the permit that is
27 being contested, provide facts showing the technical, regulatory or statutory basis for
28 the requested outcome, and must be accompanied by the data and other reference
material that is used to support the argument, including citations to the administrative
record.

1 The briefing schedule and this Order will be announced in a public notice
2 pursuant to California Code of Regulations, title 22, section 66271.18(c). All arguments
3 pertaining to the Appeal Comments that have been granted review must be filed in
4 writing, received by the date specified in the public notice, and addressed as follows:

5 Mr. Mohinder S. Sandhu, P.E.
6 Permit Appeals Officer
7 Department of Toxic Substances Control
8 8800 Cal Center Drive
9 Sacramento, California 95826

9 In addition to submitting briefing arguments in writing, the briefing documents
10 may also be filed electronically at appeals@dtsc.ca.gov.

11 Pursuant to California Code of Regulations, title 22, section 66271 .15, the
12 contested permit conditions and uncontested conditions which are not severable from
13 the contested permit conditions are stayed pending completion of the briefing period.
14 The conditions in the permit for which review have been granted are not severable from
15 those which have not been granted review. Therefore, all provisions of the permit
16 decision issued for this Facility on June 19, 2007, and the Permit itself, are hereby
17 stayed pending the decision after the briefing of the Appeal Comments for which review
18 has been granted.

19
20 Dated February 10, 2009

21
22 // Original Signed By //

23 _____
24 Mohinder S. Sandhu, P.E.
25 Permit Appeals Officer
26 Department of Toxic Substances Control
27
28